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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/799,984

03/12/2004

Michael William Howe

TH2641 (US)

8790

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EXAMINER

NICOLAS, FREDERICK C

ART UNIT

PAPER NUMBER

3754

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
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3 MONTHS

04/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/799,984

Applicant(s)

HOWE, MICHAEL WILLIAM

Examiner

Frederick C. Nicolas

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-9,11-17 and 19-53 is/are pending in the application.
- 4a) Of the above claim(s) 23-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1,4-9,11-17 and 19-53 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/04&8/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species A: Fig. 1, claims 1,4-9,11-17,19-22 and 53 in the reply filed on 2/5/2007 is acknowledged.
2. Claims 23-52 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/5/2007.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,4-9,11-22, are rejected under 35 U.S.C. 103(a) as being unpatentable over Boonzaier 6,378,733 in view of Moran et al. 2002/0112984 and Wood 4,762,525.

Boonzaier discloses a hydrocarbon fluids container (col. 1, ll. 4-11), which comprises a pouch (200) made of polymer laminate, the pouch comprising a valve or a quill (206) affixed to the pouch and extending outwardly therefrom, a rigid outer box (100) having one or more faces, the rigid box comprising a valve opening (108) in a face of the box, wherein the pouch is disposed within the rigid box (col. 1, ll. 24-67 onto col. 2, ll. 1-14). Boonzaier lacks that the pouch made of polymer laminate having at least three layers comprising: an outer layer of a first polyalkylene, at least one inner layer of a first oriented nylon, an inside layer of a second polyalkylene, and the box is coated

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with an intumescent fire retardant coating. Moran et al. teach the use of a pouch (10) made of polymer laminate having at least three layers comprising: an outer layer of a first polyalkylene, at least one inner layer of a first oriented nylon, and an inside layer of a second polyalkylene (col. 2, paragraph [0020]). Wood teaches the use of a box (12) being coated with an intumescent fire retardant coating (col. 3, ll. 41-53).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Boonzaier's pouch to be made of three layers comprising: an outer layer of a first polyalkylene, at least one inner layer of a first oriented nylon, an inside layer of a second polyalkylene as taught by Moran et al. in (col. 2, paragraph [0020]), in order to provide the pouch both chemical barrier properties and a substantial strength to avoid unwanted reactions between the components and rupture during filling, shipping and use thereof.

Further, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize Wood's teaching onto Boonzaier's box, in order to provide a box that is being coated with a fire retardant material and as a water repellant.

With respect to claim 15, "the first layer is between about 5 and 225 microns thick", as well as the claimed subject matter in claims 16-17,21-22.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the first layer of Boonzaier, Moran et al. and Wood to be between about 5 and 225 microns thick, as well as the claimed limitations recited in claims 17, 21-22, since it has been held that where the general conditions of a claim are

disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. As per MPEP 2144.05

With respect to claim 6, the claimed subject matter "the valve opening is located on the top face of the box".

It would have been obvious to one having ordinary skill in the art at the time the invention was made to relocate the valve opening of Boonzaier, Moran et al. and Wood, since it has been held that rearranging parts of an invention involves only routine skill in the art, as such is notoriously well known in the art (see U.S. No. 5,562,227).

5. Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boonzaier 6,378,733 in view of Moran et al. 2002/0112984 and Wood 4,762,525 as applied to claim 1 above, and further in view of Stahlecker et al. 5,620,135.

Boonzaier-Moran et al-Wood in combination have taught all the features of the claimed invention except that the container comprises an additional inner layer of an aluminum layer of between about 0.0001 and about 0.00070 inches thick. Stahlecker et al. teach the use of a container (2) having an additional inner layer (23) of an aluminum layer (col. 4, ll. 56-62).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the aluminum layer of Stahlecker et al. within the container of Boonzaier, Moran et al. and wood, as taught by Stahlecker et al. in (col. 4, ll. 56-62), in order to protect the container contents.

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Conclusion


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gehrke 4,407,874, Takezawa et al. 5,562,227 and Coyle 3,570,748 disclose other types of hydrocarbon fluids container.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver, can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN
April 1, 2007

 4/1/07
Frederick C. Nicolas
Primary Examiner
Art Unit 3754